IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated:- 17.06.2006

Coram:-

The Hon'ble Mr. Justice P.SATHASIVAM
and
The Hon'ble Mr. Justice V.DHANAPALAN

Writ Appeal Nos.1802 & 1803 of 2004
WAMP Nos.3374 to 3377 of 2004

S.Venkatalakshmi ... Appellant/Petitioner in W.P.No.9384/1996

S.Suguna Saraswathi ... Appellant/Petitioner in W.P.No.9385/1996

Vs.

1.The Government of Tamil Nadu,
rep. by its Secretary to Government,
Housing and Urban Development
Department, Chennai-9.

2.The Special Tahsildar,
Land Acquisition Housing Scheme II,
Collector's Office,
Coimbatore. ... Respondents in both W.As./and Respondents in both WPs.

Writ appeals filed under Clause 15 of the Letters Patent against the common order dated 17.04.2004 made in W.P.Nos.9384 and 9385 of 1996.

Writ Petitions filed under Article 226 of the Constitution of India, praying fir issuance of writs of certiorarified Mandamus calling for the records relating to G.O.Ms.No.534 Housing and Urban Development Department, dated 28.5.1995 issued by the first respondent herein and Published in the Tmilnadu Government Gazette Part II Section 2 dated 12.5.1985 in issuing Notification under Section 4(1) of the land Acquisition Act 1894 G.O.Ms.No.905, Housing and Urban Development Department dated 23.6.1986 Published in the Tamilnadu Government Gazette Extraordinary Part II, Section 2 dated 25.6.1986 in issuing Declaration under Section 6 of the Land Acquisition Act 1894 Award No.2/89 Uppilipalayam dated 29.5.1989 and the Notice in Form-10 dated 25.6.1996 issued by the second respondent herein and quash the same as lapsed under Section 11 A of the Land Acquisition Act 1894 and it cannot be proceeded interms of the said Act and forbear the respondents herein from proceeding further under the Act and interferring with the

WEB COPY
https://hcservices.ecourts.gov.in/hcservices/

possession and enjoyment of the petitioner's land comprised in S.F.Nos.215,216 and 213/1B, measuring 3.78 acres 1.52 acres and 2.20 acres respectively in uppilipalayam Village, Coimbatore Taluk.

For Appellants : Mrs.P.Bagyalakshmi
in both WAs.

For Respondents : Mr.M.Dhandapani,
in both WAs. Addl. Government Pleader

COMMON JUDGMENT

(Judgment of the Court was delivered by P.SATHASIVAM, J.)

Aggrieved by the common order of the learned single Judge dated 17.04.2004 made in W.P.Nos.9384 and 9385 of 1996, the writ petitioners/appellants have filed the above appeals.

2. Heard the learned counsel for the appellants as well as the learned Additional Government Pleader for respondents.

3. It is seen that before the learned single Judge the petitioners have raised two contentions viz., (1)the award passed by the Land Acquisition Officer is beyond the prescribed period of two years from that date of Declaration under Section 6 of the Tamil Nadu Land Acquisition Act(hereinafter referred to as "the Act"); and (2) There was no prior approval for passing the award. On the side of the respondents detailed counter affidavits have been filed meeting all the points raised in the writ petitions.

4. In so far as the first contention, the learned single Judge, after noting the explanation to Section 11-A of the Land Acquisition Act as well as the decision of the Supreme Court reported in 1997 (7) SCC 430(MUNICIPAL CORPORATION OF DELHI VS. LIZHHO DEVI), accepted the explanation offered by the Department. The declaration under Section 6 of the Act was made on 27.06.1986. Interim stay was ordered on 13.08.1986 and the award was passed on 29.05.1989. As rightly observed by the learned single Judge, the period from 13.08.1986 to 29.05.1989 shall be excluded irrespective of the fact that whether this Court has granted limited stay of dispossession alone. In view of the fact that during the said period, the matter was kept pending at the instance of the Court, we are in agreement with the conclusion arrived at by the learned single Judge and hold that the award passed on 29.05.1989 is well within the time of two years as prescribed.

5. Coming to the second contention, viz., no prior approval for passing the award, in the counter affidavit filed before the learned single Judge, it is specifically stated that approval was obtained from the Government in D.Dis.No.16686/89 (h) dated 19.05.1989 and the Award was passed only on 29.05.1989. In view of the information in the counter affidavit based on the records viz.,

WEB COPY
https://hcservices.ecourts.gov.in/hcservices/

that the approval was obtained even on 19.05.1989 and the award was passed only on 29.05.1989, the learned single Judge is perfect in rejecting the second contention also. We agree with the said conclusion, which is based on the materials placed before the learned single Judge. Admittedly no reply affidavit has been filed controverting the above factual information.

6. It is also represented that the requisitioning body viz., Tamil Nadu Housing Board has not been interested in the acquisition of lands and direction may be issued for return of the land to the petitioners/appellants. The learned single Judge by pointing out the observation of the Supreme Court, observed that if the lands are not required for the purpose for which it was sought to be acquired, it is for the petitioners/appellants to make a representation and also observed that if any such request is made, the same shall be considered by the respondents. When such observation is available, the petitioners/appellants are free to make proper application and if the same is permissible, it is for the authority concerned to pass appropriate orders.

7. With the above observation, both the writ appeals are dismissed. No costs. Consequently, WAMP Nos.3374 to 3377 of 2004 are also dismissed.

Sd/-
Asst. Registrar.

/true copy/

Sub Asst. Registrar.

raa

To
1.The Secretary to Government,
Government of Tamil Nadu,
Housing and Urban Development
Department, Chennai-9.

2.The Special Tahsildar,
Land Acquisition Housing Scheme II,
Collector's Office,
Coimbatore.

1 cc to Mrs.P.Bagyalakshmi, Advocate, Sr. 25308
1 cc to Govt. Pleader, Sr. 25399

W.A.Nos.1802 & 1803 of 2004

TM (CO)
kk 22/6

WEB COPY

https://hcservices.ecourts.gov.in/hcservices/